

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBORAH HEATHMAN-PENINGER,

Plaintiff,

v.

No. 13-11799

District Judge Mark A. Goldsmith

Magistrate Judge R. Steven Whalen

GENERAL MOTORS, LLC,

Defendant.

_____ /

**ORDER DENYING APPOINTMENT OF COUNSEL
AND DENYING MOTION TO SEAL**

Before the Court are Plaintiff's application for appointment of counsel [Doc. #2], two amended applications for appointment of counsel [Doc. #6 and #9], and motion to seal Plaintiff's financial affidavit in support of her requests for counsel [Doc. #10].

Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993), the Sixth Circuit noted that "[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances." (Internal quotations and citations omitted).

It is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been denied. At this point, Plaintiff's motion to appoint counsel is premature. If Plaintiff's claims ultimately survive dispositive motions, she may renew his motion for appointment of counsel at that time.

Plaintiff has not provided any basis to seal the financial information that she submitted in support of her request for counsel. While the form sets forth her income and expenses, it does not reveal her Social Security Number or any information that would be protected from disclosure.¹ Plaintiff's reliance on the Privacy Act, 5 U.S.C. 552a, is misplaced. That statute pertains to disclosure of records maintained by government agencies, and has no application to information voluntarily disclosed by an individual to a court.

Accordingly, Plaintiff's motions and amended motions for the appointment of counsel [Doc. #2, #6 and #9] are DENIED.

Plaintiff's motion to seal [Doc. #10] is DENIED.

IT IS SO ORDERED.

Dated: June 12, 2013

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on June 12, 2013, electronically and/or by U.S. mail.

s/Michael Williams
Relief Case Manager for the Honorable
R. Steven Whalen

¹ Financial affidavits submitted in support of requests under the Criminal Justice Act, 18 U.S.C. § 3006A, for appointed counsel in criminal cases may be sealed because disclosure of such information might intrude upon the defendant's Fifth Amendment rights. *See United States v. Gonzalez*, 150 F.3d 1246, 1266 (10th Cir.1998). There is no corresponding concern in a civil case.